

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:14-CV-36-FL

RETIREMENT COMMITTEE OF DAK
AMERICAS LLC, as Plan Administrator
of the DAK Americas LLC Pension Plan;
and TRANSAMERICA RETIREMENT
SOLUTIONS CORPORATION,

Plaintiffs,

v.

ORDER

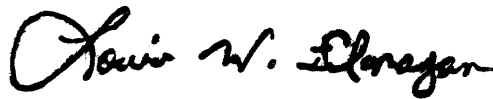
DAVID W. ALLEN, MICHAEL LYNN
BASS, JOSEPH ALEXANDER
BELLAMY, MARK STEPHEN
BREWER, JEROME BRYANT,
HAROLD E. CORBETT, KELVIN L.
GALLOWAY, WARREN ALBERT
GARRISON, JAMES F. HOLLAND,
WILLIAM LACEY NELSON, SIDNEY
HUGH RHODES, JIMMIE RAY
SELLERS, MENDELL W. SMITH,
RODNEY B. SMITH, and OTELLA
IRENE WEBB,

Defendants.

This matter comes before the court on plaintiffs' motions to dismiss defendants' counterclaims, pursuant to Federal Rule of Civil Procedure 12(b)(6) (DE 88, 103). Defendants responded to the motions and plaintiffs replied. In this posture, the motions to dismiss are ripe for ruling. However, plaintiffs also filed, on February 17, 2015, a motion for summary judgment (DE 153), seeking dismissal as a matter of law of all counterclaims asserted by defendants. In their memorandum in support thereof, plaintiffs reiterate and update the arguments made in support of their motions to dismiss, while also raising further facts and details in support of their motion for

summary judgment. (See, e.g., DE 154 at 14, 26 n.4, 30-31). Where plaintiffs' arguments in support of summary judgment reiterate and update arguments made in support of their motions to dismiss, in the interest of efficient administration of the court's docket, the court will consider plaintiffs' arguments raised in support of their motions to dismiss also in support of their motion for summary judgment. Likewise, the court will consider the arguments advanced by defendants in their respective briefs in opposition to the motions to dismiss. Accordingly, the court DISMISSES AS MOOT plaintiffs' motions to dismiss (DE 88, 103).

SO ORDERED, this the 17th day of March, 2015.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
United States District Judge